

STEVEN A. GIBSON, ESQ.

Nevada Bar No. 6656

sgibson@righthaven.com

J. CHARLES COONS, ESQ.

Nevada Bar No. 10553

ccoons@righthaven.com

JOSEPH C. CHU, ESQ.

Nevada Bar No. 11082

jchu@righthaven.com

Righthaven LLC

9960 West Cheyenne Avenue, Suite 210

Las Vegas, Nevada 89129-7701

(702) 527-5900

Attorneys for Plaintiff

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

RIGHTHAVEN LLC, a Nevada limited-
liability company,

Plaintiff,

v.

ALAN J. POTASNIK, an individual; and
TOM JOHNSON, an individual,

Defendants.

Case No.: 2:10-cv-01330

**COMPLAINT AND DEMAND
FOR JURY TRIAL**

Righthaven LLC (“Righthaven”) complains as follows against Alan J. Potasnik (“Mr. Potasnik”) and Tom Johnson (“Mr. Johnson”; collectively with Ms. Potasnik known herein as the “Defendants”), on information and belief:

NATURE OF ACTION

1. This is an action for copyright infringement pursuant to 17 U.S.C. § 501.

PARTIES

2. Righthaven is, and has been at all times relevant to this lawsuit, a Nevada limited-liability company with its principal place of business in Nevada.

3. Righthaven is, and has been at all times relevant to this lawsuit, in good standing with the Nevada Secretary of State.

4. Mr. Johnson is, and has been at all times relevant to this lawsuit, identified by the current registrar, Net Firms, Inc. (“Net Firms”), as a registrant, administrative contact and technical contact for the Internet domain found at <rollcallamerica.com> (the “Domain”).

5. Mr. Potasnik is, and has been at all times relevant to this lawsuit, identified as the owner of the content accessible through the Domain (said content accessible through the Domain and the Domain itself known herein as the “Website”), as evidenced by Mr. Potasnik’s LinkedIn page, attached hereto as Exhibit 1.

JURISDICTION

6. This Court has original subject matter jurisdiction over this copyright infringement action pursuant to 28 U.S.C. § 1331 and 28 U.S.C. § 1338(a).

7. Righthaven is the owner of the copyright in the literary work entitled: “Now the real battle begins” (the “Work”), attached hereto as Exhibit 2.

8. At all times relevant to this lawsuit, the Work has depicted and depicts the original source publication as the *Las Vegas Review-Journal*.

9. The Defendants willfully copied, on an unauthorized basis, the Work from a source emanating from Nevada.

10. On or about June 16, 2010, the Defendants displayed, and continue to display, an unauthorized reproduction of the Work (the “Infringement”), attached hereto as Exhibit 3, on the Website.

11. At all times relevant to this lawsuit, the Infringement depicted and depicts the original source publication as the *Las Vegas Review-Journal*.

12. The subject matter, at least in part, of the Work and the Infringement, is the political battle for the United States Senate seat currently held by Harry Reid.

13. At all times relevant to this lawsuit, the Defendants knew that the Work was originally published in the *Las Vegas Review-Journal*.

14. At all times relevant to this lawsuit, the Defendants knew that the Infringement was and is of specific interest to Nevada residents.

15. The Defendants' display of the Infringement was and is purposefully directed at Nevada residents.

VENUE

16. The United States District Court for the District of Nevada is an appropriate venue, pursuant to 28 U.S.C. § 1391(b)(2), because a substantial part of the events giving rise to the claim for relief are situated in Nevada.

17. The United States District Court for the District of Nevada is an appropriate venue, pursuant to 28 U.S.C. § 1400(a), because the Defendants are subject to personal jurisdiction in Nevada.

FACTS

18. The Work constitutes copyrightable subject matter, pursuant to 17 U.S.C. § 102(a)(1).

19. Righthaven is the owner of the copyright in and to the Work.

20. The Work was originally published on June 9, 2010.

21. On July 26, 2010, the United States Copyright Office (the "USCO") granted Righthaven the registration to the Work, copyright registration number TX0007181515 (the "Registration") and attached hereto as Exhibit 4 is evidence of the Registration from the official USCO database record depicting the occurrence of the Registration.

22. On or about June 16, 2010, the Defendants displayed, and continue to display, the Infringement on the Website.

23. The Defendants did not seek permission, in any manner, to reproduce, display, or otherwise exploit the Work.

24. The Defendants were not granted permission, in any manner, to reproduce, display, or otherwise exploit the Work.

CLAIM FOR RELIEF: COPYRIGHT INFRINGEMENT

25. Righthaven repeats and realleges the allegations set forth in Paragraphs 1 through 24 above.

26. Righthaven holds the exclusive right to reproduce the Work, pursuant to 17 U.S.C. § 106(1).

27. Righthaven holds the exclusive right to prepare derivative works based upon the Work, pursuant to 17 U.S.C. § 106(2).

28. Righthaven holds the exclusive right to distribute copies of the Work, pursuant to 17 U.S.C. § 106(3).

29. Righthaven holds the exclusive right to publicly display the Work, pursuant to 17 U.S.C. § 106(5).

30. The Defendants reproduced the Work in derogation of Righthaven's exclusive rights under 17 U.S.C. § 106(1).

31. The Defendants created an unauthorized derivative of the Work in derogation of Righthaven's exclusive rights under 17 U.S.C. § 106(2).

32. The Defendants distributed, and continue to distribute, an unauthorized reproduction of the Work on the Website, in derogation of Righthaven's exclusive rights under 17 U.S.C. § 106(3).

33. The Defendants publicly displayed, and continue to publicly display, an unauthorized reproduction of the Work on the Website, in derogation of Righthaven's exclusive rights under 17 U.S.C. § 106(5).

34. Mr. Johnson has willfully engaged in the copyright infringement of the Work.

35. Mr. Potasnik has willfully engaged in the copyright infringement of the Work.

1 4. Award Righthaven statutory damages for the willful infringement of the Work,
2 pursuant to 17 U.S.C. § 504(c);

3 5. Award Righthaven costs, disbursements, and attorneys' fees incurred by
4 Righthaven in bringing this action, pursuant to 17 U.S.C. § 505;

5 6. Award Righthaven pre- and post-judgment interest in accordance with applicable
6 law; and

7 7. Grant Righthaven such other relief as this Court deems appropriate.
8

9 **DEMAND FOR JURY TRIAL**

10 Righthaven requests a trial by jury pursuant to Fed. R. Civ. P. 38.

11 Dated this sixth day of August, 2010.
12

13 RIGHTHAVEN LLC
14

15 By: /s/ J. Charles Coons
16 STEVEN A. GIBSON, ESQ.
17 Nevada Bar No. 6656
18 J. CHARLES COONS, ESQ.
19 Nevada Bar No. 10553
20 JOSEPH C. CHU, ESQ.
21 Nevada Bar No. 11082
22 9960 West Cheyenne Avenue, Suite 210
23 Las Vegas, Nevada 89129-7701
24 Attorneys for Plaintiff
25
26
27
28